

107TH CONGRESS
1ST SESSION

S. 543

To provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2001

Mr. DOMENICI (for himself, Mr. WELLSTONE, Mr. SPECTER, Mr. KENNEDY, Mr. CHAFEE, Mr. DODD, Mr. COCHRAN, Mr. REED, Mr. REID, Mr. WARNER, Mr. GRASSLEY, Mr. ROBERTS, Mr. DURBIN, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mental Health Equi-
5 table Treatment Act of 2001”.

1 **SEC. 2. AMENDMENT TO THE EMPLOYEE RETIREMENT IN-**
 2 **COME SECURITY ACT OF 1974.**

3 (a) IN GENERAL.—Section 712 of the Employee Re-
 4 tirement Income Security Act of 1974 (29 U.S.C. 1185a)
 5 is amended to read as follows:

6 **“SEC. 712. MENTAL HEALTH PARITY.**

7 “(a) IN GENERAL.—In the case of a group health
 8 plan (or health insurance coverage offered in connection
 9 with such a plan) that provides both medical and surgical
 10 benefits and mental health benefits, such plan or coverage
 11 shall not impose any treatment limitations or financial re-
 12 quirements with respect to the coverage of benefits for
 13 mental illnesses unless comparable treatment limitations
 14 or financial requirements are imposed on medical and sur-
 15 gical benefits.

16 “(b) CONSTRUCTION.—Nothing in this section shall
 17 be construed as requiring a group health plan (or health
 18 insurance coverage offered in connection with such a plan)
 19 to provide any mental health benefits.

20 “(c) SMALL EMPLOYER EXEMPTION.—

21 “(1) IN GENERAL.—This section shall not apply
 22 to any group health plan (and group health insur-
 23 ance coverage offered in connection with a group
 24 health plan) for any plan year of any employer who
 25 employed an average of at least 2 but not more than

1 25 employees on business days during the preceding
2 calendar year.

3 “(2) APPLICATION OF CERTAIN RULES IN DE-
4 TERMINATION OF EMPLOYER SIZE.—For purposes of
5 this subsection—

6 “(A) APPLICATION OF AGGREGATION RULE
7 FOR EMPLOYERS.—Rules similar to the rules
8 under subsections (b), (c), (m), and (o) of sec-
9 tion 414 of the Internal Revenue Code of 1986
10 shall apply for purposes of treating persons as
11 a single employer.

12 “(B) EMPLOYERS NOT IN EXISTENCE IN
13 PRECEDING YEAR.—In the case of an employer
14 which was not in existence throughout the pre-
15 ceding calendar year, the determination of
16 whether such employer is a small employer shall
17 be based on the average number of employees
18 that it is reasonably expected such employer
19 will employ on business days in the current cal-
20 endar year.

21 “(C) PREDECESSORS.—Any reference in
22 this paragraph to an employer shall include a
23 reference to any predecessor of such employer.

24 “(d) SEPARATE APPLICATION TO EACH OPTION OF-
25 FERED.—In the case of a group health plan that offers

1 a participant or beneficiary two or more benefit package
 2 options under the plan, the requirements of this section
 3 shall be applied separately with respect to each such op-
 4 tion.

5 “(e) DEFINITIONS.—For purposes of this section—

6 “(1) FINANCIAL REQUIREMENTS.—The term
 7 ‘financial requirements’ includes deductibles, coin-
 8 surance, co-payments, other cost sharing, and limita-
 9 tions on the total amount that may be paid with re-
 10 spect to benefits under the plan or health insurance
 11 coverage with respect to an individual or other cov-
 12 erage unit (including annual and lifetime limits).

13 “(2) MEDICAL OR SURGICAL BENEFITS.—The
 14 term ‘medical or surgical benefits’ means benefits
 15 with respect to medical or surgical services, as de-
 16 fined under the terms of the plan or coverage (as the
 17 case may be), but does not include mental health
 18 benefits.

19 “(3) MENTAL HEALTH BENEFITS.—The term
 20 ‘mental health benefits’ means benefits with respect
 21 to services for all categories of mental health condi-
 22 tions listed in the Diagnostic and Statistical Manual
 23 of Mental Disorders, Fourth Edition (DSM IV–TR),
 24 or the most recent edition if different than the
 25 Fourth Edition, as defined under the terms of the

1 plan or coverage (as the case may be), if such serv-
 2 ices are included as part of an authorized treatment
 3 plan that is in accordance with standard protocols
 4 and such services meet applicable medical necessity
 5 criteria, but does not include benefits with respect to
 6 the treatment of substance abuse or chemical de-
 7 pendency.

8 “(4) TREATMENT LIMITATIONS.—The term
 9 ‘treatment limitations’ means limitations on the fre-
 10 quency of treatment, number of visits or days of cov-
 11 erage, or other limits on the duration or scope of
 12 treatment under the plan or coverage.”.

13 (b) EFFECTIVE DATE.—The amendment made by
 14 this section shall apply with respect to plan years begin-
 15 ning on or after January 1, 2002.

16 **SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT**
 17 **RELATING TO THE GROUP MARKET.**

18 (a) IN GENERAL.—Section 2705 of the Public Health
 19 Service Act (42 U.S.C. 300gg–5) is amended to read as
 20 follows:

21 **“SEC. 2705. MENTAL HEALTH PARITY.**

22 “(a) IN GENERAL.—In the case of a group health
 23 plan (or health insurance coverage offered in connection
 24 with such a plan) that provides both medical and surgical
 25 benefits and mental health benefits, such plan or coverage

1 shall not impose any treatment limitations or financial re-
 2 quirements with respect to the coverage of benefits for
 3 mental illnesses unless comparable treatment limitations
 4 or financial requirements are imposed on medical and sur-
 5 gical benefits.

6 “(b) CONSTRUCTION.—Nothing in this section shall
 7 be construed as requiring a group health plan (or health
 8 insurance coverage offered in connection with such a plan)
 9 to provide any mental health benefits.

10 “(c) SMALL EMPLOYER EXEMPTION.—

11 “(1) IN GENERAL.—This section shall not apply
 12 to any group health plan (and group health insur-
 13 ance coverage offered in connection with a group
 14 health plan) for any plan year of any employer who
 15 employed an average of at least 2 but not more than
 16 25 employees on business days during the preceding
 17 calendar year.

18 “(2) APPLICATION OF CERTAIN RULES IN DE-
 19 TERMINATION OF EMPLOYER SIZE.—For purposes of
 20 this subsection—

21 “(A) APPLICATION OF AGGREGATION RULE
 22 FOR EMPLOYERS.—Rules similar to the rules
 23 under subsections (b), (c), (m), and (o) of sec-
 24 tion 414 of the Internal Revenue Code of 1986

1 shall apply for purposes of treating persons as
2 a single employer.

3 “(B) EMPLOYERS NOT IN EXISTENCE IN
4 PRECEDING YEAR.—In the case of an employer
5 which was not in existence throughout the pre-
6 ceding calendar year, the determination of
7 whether such employer is a small employer shall
8 be based on the average number of employees
9 that it is reasonably expected such employer
10 will employ on business days in the current cal-
11 endar year.

12 “(C) PREDECESSORS.—Any reference in
13 this paragraph to an employer shall include a
14 reference to any predecessor of such employer.

15 “(d) SEPARATE APPLICATION TO EACH OPTION OF-
16 FERED.—In the case of a group health plan that offers
17 a participant or beneficiary two or more benefit package
18 options under the plan, the requirements of this section
19 shall be applied separately with respect to each such op-
20 tion.

21 “(e) DEFINITIONS.—For purposes of this section—

22 “(1) FINANCIAL REQUIREMENTS.—The term
23 ‘financial requirements’ includes deductibles, coin-
24 surance, co-payments, other cost sharing, and limita-
25 tions on the total amount that may be paid with re-

1 spect to benefits under the plan or health insurance
 2 coverage with respect to an individual or other cov-
 3 erage unit (including annual and lifetime limits).

4 “(2) MEDICAL OR SURGICAL BENEFITS.—The
 5 term ‘medical or surgical benefits’ means benefits
 6 with respect to medical or surgical services, as de-
 7 fined under the terms of the plan or coverage (as the
 8 case may be), but does not include mental health
 9 benefits.

10 “(3) MENTAL HEALTH BENEFITS.—The term
 11 ‘mental health benefits’ means benefits with respect
 12 to services for all categories of mental health condi-
 13 tions listed in the Diagnostic and Statistical Manual
 14 of Mental Disorders, Fourth Edition (DSM IV), or
 15 the most recent edition if different than the Fourth
 16 Edition, as defined under the terms of the plan or
 17 coverage (as the case may be), if such services are
 18 included as part of an authorized treatment plan
 19 that is in accordance with standard protocols and
 20 such services meet applicable medical necessity cri-
 21 teria, but does not include benefits with respect to
 22 the treatment of substance abuse or chemical de-
 23 pendency.

24 “(4) TREATMENT LIMITATIONS.—The term
 25 ‘treatment limitations’ means limitations on the fre-

1 quency of treatment, number of visits or days of cov-
 2 erage, or other limits on the duration or scope of
 3 treatment under the plan or coverage.”.

4 (b) **EFFECTIVE DATE.**—The amendment made by
 5 this section shall apply with respect to plan years begin-
 6 ning on or after January 1, 2002.

7 **SEC. 4. PREEMPTION.**

8 Nothing in the amendments made by this Act shall
 9 be construed to preempt any provision of State law that
 10 provides protections to enrollees that are greater than the
 11 protections provided under such amendments.

12 **SEC. 5. GENERAL ACCOUNTING OFFICE STUDY.**

13 (a) **STUDY.**—The Comptroller General shall conduct
 14 a study that evaluates the effect of the implementation
 15 of the amendments made by this Act on the cost of health
 16 insurance coverage, access to health insurance coverage
 17 (including the availability of in-network providers), the
 18 quality of health care, and other issues as determined ap-
 19 propriate by the Comptroller General.

20 (b) **REPORT.**—Not later than 2 years after the date
 21 of enactment of this Act, the Comptroller General shall
 22 prepare and submit to the appropriate committees of Con-
 23 gress a report containing the results of the study con-
 24 ducted under subsection (a).

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